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7 ANN MARIE BORGES, *et al.*,
8 Plaintiffs,
9 v.
10 COUNTY OF MENDOCINO, *et al.*,
11 Defendants.

Case No. [20-cv-04537-SI](#)

**ORDER DISMISSING DEFENDANTS
JOHN MCCOWEN, GEORGEANN
CROSKEY AND CARRE BROWN
WITHOUT PREJUDICE**

Re: Dkt. No. 61

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13 Defendants have filed a motion for judgment on the pleadings, and that motion is scheduled
14 for a hearing on July 9, 2021. Pursuant to Civil Local Rule 7-1(b), the Court determines that the
15 matter is appropriate for resolution without oral argument and VACATES the hearing.

16 Defendants John McCowen, Carre Brown, and Georgeanne Croskey assert that they have
17 been sued in their official capacities, and thus that plaintiffs' claims against them should be
18 dismissed with prejudice because the official capacity claims are redundant of plaintiffs' claims
19 against the County of Mendocino. *See Center for Bio-Ethical Reform, Inc. v. Los Angeles County*
20 *Sheriff Dep't*, 533 F.3d 780, 799 (9th Cir. 2008) ("When both a municipal officer and a local
21 government entity are named, and the officer is named only in an official capacity, the court may
22 dismiss the officer as a redundant defendant.").

23 Plaintiffs state that they do not oppose dismissal of defendants McCowen, Brown and
24 Croskey without prejudice. However, plaintiffs state that the first amended complaint was silent on
25 whether those defendants were sued in their official or individual capacities. Plaintiffs wish to
26 reserve their right to amend the complaint to sue these defendants in their individual capacities if
27 plaintiffs uncover evidence that defendants engaged in a conspiracy. "Unlike an official capacity
28 claim, where the constitutional injury 'must be attributable to [an] official policy or custom,' an

1 individual capacity claim ‘hinges upon [the individual defendant’s] participation in the deprivation
2 of constitutional rights.’” *Torres v. Goddard*, 793 F.3d 1046, 1057 (9th Cir. 2015) (internal citation
3 omitted).

4 The Court finds it appropriate to DISMISS plaintiffs’ claims against defendants McCowen,
5 Brown, and Croskey without prejudice to plaintiffs later seeking to allege individual capacity claims
6 against these defendants.

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IT IS SO ORDERED.

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10 Dated: June 22, 2021

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13 SUSAN ILLSTON
14 United States District Judge
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